COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariffs: M.D.T.E. Nos. 14 and 17, filed with the Department on April 2, 1999, to become effective May 2, 1999, by New England Telephone and Telegraph Company d/b/a/ Bell Atlantic

D.T.E. 98-57

COMMENTS OF AT&T COMMUNICATIONS OF NEW ENGLAND, INC. REGARDING BELL ATLANTIC'S APRIL 21, MAY 17, MAY 19

MAY 25 TARIFF FILINGS

AT&T COMMUNICATIONS OF NEW ENGLAND, INC.

Jeffrey F. Jones

Jay E. Gruber

Emily Donovan

Kevin Prendergast

Palmer & Dodge llp

One Beacon Street

Boston, MA 02108-3190

(617) 573-0100

Robert Aurigema

AT&T Communications of New England, Inc.

32 Avenue of the Americas, Room 2700

New York, NY 10013

(212) 387-5627

Dated: June 8, 2000

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariffs: M.D.T.E. Nos. 14 and 17, filed with the Department on April 2, 1999, to become effective May 2, 1999, by New England Telephone and Telegraph Company d/b/a/ Bell Atlantic

D.T.E. 98-57

COMMENTS OF AT&T COMMUNICATIONS OF NEW ENGLAND, INC. REGARDING BELL ATLANTIC'S APRIL 21, MAY 17, MAY 19

MAY 25 TARIFF FILINGS

Introduction

Pursuant to the hearing officer's memorandum of May 19, 2000, AT&T hereby files its Comments on Bell Atlantic's Tariff Filings, dated April 21, 2000, May 17, 2000, and May 19, 2000.

Procedural Background

On March 24, 2000, the Department of Telecommunications and Energy ("Department") issued its Order ("Order" or "March 23 Order") regarding Bell Atlantic - Massachusetts' ("Bell Atlantic") Tariff Nos. 14 and 17 and directed Bell Atlantic to file a Compliance Filing within four weeks of the issuance of the Order. On April 13, 2000, Bell Atlantic filed the following motions with respect to issues pertaining to its Tariff No. 17 (collectively, "Motions"):

1) Motion for Reconsideration and Clarification ("Reconsideration Motion"), in which Bell Atlantic sought substantive changes to the Department's Order on a number of significant issues;

2) Motion for Extension of Time ("Four Week Extension Motion"), in which Bell Atlantic sought a four-week extension beyond the compliance date established in the Department's Order to complete the cost studies and to develop certain provisioning intervals that were required by the sections of the Order not subject to Bell Atlantic's Reconsideration Motion;

3) Motion to Defer the Date for Compliance and Extension ("Motion To Stay Pending Reconsideration"), in which Bell Atlantic sought a stay of its compliance obligations and of the judicial appeal period with respect to the issues raised in its Reconsideration Motion; and

4) Motion to Reopen, in which Bell Atlantic sought to reopen the record with respect to two issues (relating to the size of the cageless collocation bay and the ordering process for EEL arrangements).

On April 21, 2000, Bell Atlantic filed a partial compliance filing ("April 21 Compliance Tariff"). In that filing, notwithstanding the absence of any Department

action on Bell Atlantic's Motion To Stay Pending Reconsideration, Four-Week Extension Motion or Motion To Reopen the Record, Bell Atlantic did not purport to comply with those portions of the Department's Order with which it took issue in those Motion. See, Compliance Filing, Attachment B. Pursuant to the schedule established by the hearing officer, on May 1, 2000, AT&T, MCI, RCN, Rhythms and Covad filed oppositions to Bell Atlantic's Reconsideration Motion.

On a schedule of its own choosing, Bell Atlantic subsequently filed, on May 17, 2000, additional compliance tariff sections pertaining to collocation at remote terminals ("May 17 Compliance Filings") and, on May 19, further compliance tariffs ("May 19 Compliance Filing"). On May 19, 2000, the Department suspended the April 21 and May 17 Compliance Filings for further investigation. The Suspension Order states that such tariff provisions will be suspended until July 17, 2000, unless otherwise ordered by the Department. In a separate scheduling memorandum from the hearing officer, the Department established a deadline of June 5, 2000 for CLEC comments on the April 21 and May 17 Compliance Filings.(1) In response to Bell Atlantic's May 19 Compliance Filing, apparently received by the Department after the hearing officer had issued the above mentioned scheduling memorandum requesting comments on the April 21 and May 17 Compliance Filings by June 5, the hearing officer issued a second scheduling memorandum asking that the CLECs' June 5 comments also address Bell Atlantic's May 19 Compliance Filing. To date, the Department has not issued a suspension order with respect to the May 19 Compliance Filing.

On June 2, the Department issued its decisions on Bell Atlantic's Four-Week Extension Motion, Motion To Stay Pending Reconsideration, and Motion To Reopen ("June 2 Order"). Recognizing that Bell Atlantic had already given itself the four week extension, the Department declared the Four-Week Extension Motion moot and stated that it "need not take formal action." Id., at 5. (According to the ordering clauses at the end of the June 2 Order, the Department nevertheless granted the Four-Week Extension Motion. Id,. at 16.) The Department denied Bell Atlantic's Motion To Reopen. Id,. at 17. The Department granted in part Bell Atlantic's Motion To Stay Pending Reconsideration on the ground that administrative inefficiencies and confusion could arise as a result of the D.C. Circuit's recent decision relating to the FCC's March 31, 1999, Second Report and Order, 14FCC Rcd 4761, in CC Docket No. 98-147, FCC 99-48, 14 ("Advanced Services Order"). See, GTE Services Corporation et. al v. FCC, Nos. 99-1176, 99-1201, 200 U.S. App. LEXIS 4111 (D.C. Circuit, March 17, 2000) ("GTE Decision"). The Department's decision on Bell Atlantic's Reconsideration Motion is still pending.

In addition to the forgoing tariff filings, Bell Atlantic also filed new tariff provisions and cost studies on May 25, 2000, concerning STS-1 unbundled dedicated IOF transport; 56 kbps Digital Link; 44,736 Mbps Link; Unbundled Network Combinations-Other; Unbundled Dark Fiber; Unbundled Sub-Loop Arrangements; and certain other tariff changes. According to Bell Atlantic's filing letter, the May 25 proposed tariff provisions are made "in compliance" with the FCC UNE Remand Order and Supplemental Order. Bell Atlantic's proposed effective date for the May 25 tariff provisions is June 24, 2000. The Department has not yet suspended those provisions, nor has it yet requested comment on them.

Comments

I. Bell Atlantic's April 21 "Compliance" Filing Fails To Comply With The Department's Order Of March 24, 2000.

In its April 21 "Compliance" Filing, Bell Atlantic purports to comply with the parts of the Department's Order that are not subject to its Reconsideration Motion and are not subject to its Four Week Extension Motion. As shown below, Bell Atlantic's April 21 filing does not even comply with the provisions with which it purports to comply.

A. Bell Atlantic Failed To Comply With Part VI, Section 3 Of The Department's Order Regarding Microwave Collocation.

In its Part E, Section 2.2.1.B. of its proposed tariff, Bell Atlantic had inserted

two separate provisions: the first allowing it to require CLEC transmitter/receiver equipment to be installed in a locked cabinet, and the second allowing Bell Atlantic to require CLEC multiplexing node or transmitter/receiver equipment to be placed in a separate room or cage.(2) In Part VI, Section 3 of the Department's Order regarding Microwave Collocation, the Department rejected both requirements (locked cabinet and separate room). Inexplicably in its "compliance" filing, however, Bell Atlantic deleted the locked cabinet provision but not the separate room provision. Consequently, the April 21 "compliance" filing should be rejected for failing to comply.

B. Bell Atlantic Failed To Comply With Part VII, Section D Of The Department's Order Regarding Significant Local Usage and Audit Provisions.

In Part VII, Section D of the Order, Department clearly and unequivocally rejected Bell Atlantic's proposed definition of what constitutes significant local usage. The Department stated:

Bell Atlantic appears to misread the FCC's position with regard to its "local service component." Supplemental Order at 5, n.9. In the Supplemental Order, the FCC accepted the two instances used by Bell Atlantic in its proposed EEL offering as examples of significant local exchange service. However, as the CLECs contend, the FCC was clear that those were merely examples of significant local exchange service, and there is no basis for the belief that the FCC intended those examples to be definitive for determining the local service component. The Department agrees with AT&T witness Cederqvist that the definition of what comprises a significant amount of local exchange service is best left to the FCC or, if the FCC chooses to go no further than its current position, to an industry collaborative (see Tr. 6, at 1173, 1179-80).

Order, at 101. Despite that clear ruling, however, the Bell Atlantic continued to retain the very language that the Department ruled unacceptable. Bell Atlantic's proposed April 21 "compliance" filing must, therefore, be rejected.(3)

C. Bell Atlantic Failed To Comply With Part IX, Section C Of The Department's Order Regarding Rearrangement of Facilities.

In Part IX, Section C of its Order, the Department directed Bell Atlantic to amend its language to include a provision obligating Bell Atlantic to give notice to CLECs in the instance of planned network changes and upgrades. The Department's Order also required Bell Atlantic to provide a mechanism for CLECs to submit formal comments and suggestions on these network changes and upgrades prior to their implementation.

Although Bell Atlantic complied with the requirement to give notice (Part A, Section 1.9.1. B), it did not comply with the Department's Order to provide a mechanism for CLECs to give notice. While Bell Atlantic has implied in its Reconsideration Motion that it would follow FCC notice and comment requirements (Reconsideration Motion, at 20-22), nowhere is there language in the tariff indicating that. See, AT&T's Opposition To Bell Atlantic's Reconsideration Motion, filed on May 1, 2000.

II. The Department Should Suspend And Investigate The New Tariff And Cost Provisions In Bell Atlantic's May 17 And May 19 Filings.

A. Bell Atlantic's May 17 And May 19 Filings Are Not "Compliance" Filings; They Warrant The Same Attention That Any New Tariff Provisions With Significant Implications Would Warrant.

The May 17 and May 19 tariff filings are not "compliance" filings in any sense other than Bell Atlantic complied with a Department directive to file new tariff provisions or cost studies. The content of these filings are completely new to the parties. The May 17 filing sets forth for the first time Bell Atlantic's proposed terms and conditions for collocation at Remote Terminal Equipment Enclosures ("CRTEE") purportedly in compliance with the FCC's Third Report and Fourth Notice of

Proposed Rulemaking, CC Docket No. 96-98 and the Department March 24 Order. There are new issues raised in the provision of CRTEE which have not been addressed in this proceeding for the simple reason that this is the first time that Bell Atlantic has proposed any terms and conditions for it. The May 19 filing similarly sets forth for the first time Bell Atlantic's proposed intervals for the provision of OC-3 and OC-12 facilities and sets forth for the first time certain new cost studies.

Indeed, that Bell Atlantic's May 17 and May 19 filings are not compliance filings is indicated by Bell Atlantic's Four-Week Extension Motion filed on April 13, 2000:

Good cause for an extension exists because, to complete the above referenced cost studies and develop appropriate intervals, BA-MA will, among other things, need to convene a diverse group of personnel, develop service and/or technical descriptions, and prepare cost information. The additional time will assure that the responsible personnel can perform the required work completely and accurately.

Id., at 2.

Determining Bell Atlantic's "compliance" with the Department's directives here involves more than simply reviewing modified tariff language to determine whether it is consistent with specific directives in the Department's Order. That Bell Atlantic needed to convene a "diverse group of personnel" to design the tariff provisions clearly indicates that the terms and conditions are completely new. As discussed below, they raise several issues that require the level of examination that is afforded any new tariff filing. Moreover, many of the cost studies are far from "self-evident," and may require discovery to clarify Bell Atlantic's methodology and assumptions. Time will be required to review Bell Atlantic's new cost studies, replicate the analyses in them and identify and test their assumptions. In order to permit the parties sufficient time to undertake such an investigation, the Department should suspend the effective date of the tariff provisions in these two filings.

The Department has already suspended the May 17 filing to July 17, 2000. The Department has not yet suspended the May 19 filing beyond the proposed June 18, 2000 effective date. The Department should suspend both filings until the end of September. This will give the parties sufficient time to conduct their review, ask any necessary questions of Bell Atlantic, receive the answers and file comments. If hearings are required, a further suspension will be necessary, up to the maximum ten months.

B. There Are Specific Concerns Raised By Bell Atlantic's May 17 and May 19 Filings That Should Be Investigated.

The May 17 tariff filing regarding CRTEE raises a number of potential issues. Without further process, AT&T can only identify some issues now. Those issues, and others that may be identified, can only be resolved in further proceedings.

The initial issues identified by AT&T in the May 17 filing are:

CLEC Responsibility For Maintenance and Escort Requirement. Under Part E, Section 11.1.4.D., CLECs will be responsible for maintenance, but - unlike traditional virtual collocation arrangements where such maintenance is accomplished by CLEC remote monitoring and the dispatch of a Bell Atlantic central office technician - this proposal requires a field dispatch of a CLEC technician. When combined with Bell Atlantic's proposed escort requirement(4) (see, Part E, Section 11.1.4.D. and 11.1.5.), this provision creates the necessity for coordination between CLEC technicians and Bell Atlantic technicians, coordination that will inevitably lead to headaches and delays. Bell Atlantic offers no explanation or rationale for its refusal to provide the same type of maintenance support for remote terminal virtual collocation as it does for central office virtual collocation.

Availability of Space, Right of Way, and Building Owner Approval.. Under Section 11.1.1.A.3., Bell Atlantic conditions its CRTEE offering on the availability of

space and right of way and on building owner approval. This provision raises more questions than it answers. How will availability be determined? What obligation does Bell Atlantic have to maximize the possibility that there will be space, right of way, or building owner approval? The ILECs, for example, have a duty to use their best efforts to obtain any necessary licenses, etc., for the CLEC to enjoy intellectual property rights necessary to use vendor equipment). The ILECs should have comparable obligations here. More significantly, Section 251(b)(4) of the 1996 Telecommunications Act imposes upon Bell Atlantic "the duty to afford access to [its] poles, ducts, conduits and rights of way . . . to competing providers of telecommunications services on rates, terms and conditions that are consistent with section 224." The FCC has interpreted such an obligation to include the exercise of eminent domain authority by an ILEC on behalf of a CLEC "to expand an existing right of way over private property in order to accommodate a request for access[.]" Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, No. FCC 96-325, 11 FCC Rcd 15499, ¶ 1181. (1996). Such an obligation most certainly would apply to Bell Atlantic in connection with its CRTEE offering.

Renegotiation of Leases or Easements. Under Section 11.1.1.B., Bell Atlantic states that it will not renegotiate leases or easements needed to meet CLEC demand for CRTEE. This provision raises the same issues as those discussed in the preceding point. Does Bell Atlantic have a duty to use its best efforts to accommodate CLEC needs, in the same way that it would if it were Bell Atlantic that had such needs?

Cross Connects Not Located In The RTEE. Under Section 11.1.1.D.2. states that "[w]here a cross connect field is not located in the RTEE, the CLEC must provide a telecommunications carrier outside plant interconnection cabinet (TOPIC) on a CLEC-secured easement at or near the Telephone Company feeder distribution interface (FDI)." It is unclear when this circumstance would occur. It is unclear when and how the CLEC would know whether a cross connect field was located in the RTEE. This is a problem because, if it is not, then it triggers the burdensome and potentially prohibitive requirement for a TOPIC cabinet on a CLEC secured easement. It is commercially unreasonable for a CLEC to attempt to negotiate such an easement, as the property is already burdened with an easement, and the "negotiation" is severely limited, since the TOPIC must be very near the RTEE. Also, the degree of competition supported by this burdensome and unreasonable configuration is very limited; the number of cabinets that can realistically be installed, one next to the other, does not support a large number of providers necessary for a competitive market to develop.

OSS-Ordering Service. In Section 11.1.2., Bell Atlantic states in very general terms the means for ordering service. It appears that all of the ordering and communication will be essentially manual; no real time, electronic access is available for pre-order purposes. This request also raises many of the same issues that arise in connection with the ordering of unbundled dark fiber in regard to the type of information to be provided.

NRCs. Bell Atlantic has proposed a whole host of new NRCs. They are, however, for the most part designated as "ICB," or individual case-basis determination. See, Part M, Section 5.11.1. As a general proposition such pricing violates the Department's March 24 Order, which states: "we do not find it appropriate for Bell Atlantic to have ICB pricing in an interconnection tariff of general applicability." Id., at 207. At a minimum further investigation is required to determine whether the ICB pricing is appropriate. In addition to the problem of ICB pricing, Bell Atlantic has provided no support for its $2,500 application fee or for the use of rates developed elsewhere in the provision of CRTEE. See, "Equipment Support," "DC Power," and "Conduit and Space" in Section 5.11.1. The reasonableness of these charges must be determined before they are allowed to go into effect. Moreover, it is not clear in Section 11.2.1.A. how the new NRCs associated with the CRTEE offering will be applied. Up to now, the Department has been determining the reasonableness of NRC levels and application in the Consolidated Arbitrations. That case, however, is virtually on the eve of hearings (hearings are scheduled to begin on June 20, 2000), and it is presumably too late to include new NRCs in the current phase of the

Consolidated Arbitrations proceeding.

Although AT&T may have additional issues that more time and process would enable it to identify, the issues that AT&T has cited above are more than sufficient to warrant the suspension of the May 17 tariff filings to conduct a thorough investigation.

The May 19 tariff filing also raises a number of issues:

Manhole Breakout. Under Section 10.2.1.A., Bell Atlantic's method for connecting the adjacent structure to the central office, if it is the sole method as it appears to be, is burdensome, discriminatory, expensive, and in many cases would be unnecessary and badly engineered, particularly if the adjacent structure is placed from the CO Manhole 0. Bell Atlantic should be required to offer other, alternative, soundly engineered but more efficient entrance connections varying with the location of the adjacent structure, as Bell Atlantic does for itself. For example, an adjacent structure may be a fiberglass structure mounted on the roof (where clearly it would make no sense to go from the roof out to the Manhole to get back into the building).

Failure To Supply AC/DC Power. Unlike all other forms of collocations, in Section 10.2.1.C., Bell Atlantic here implicitly refuses to provide AC power, requiring separate arrangements between the CLEC and the power company. Such a failure violates Bell Atlantic's legal obligation to provide non-discriminatory collocation arrangements. Collocation encompasses space, power, and connectivity. Likewise, Bell Atlantic implicitly is refusing to provide DC power to adjacent structures. That would greatly complicate the CLEC's undertaking, as they would then have to install and house the entire DC power plant, including the standby generator, fuel tanks, batteries, rectifiers, and controller. Additionally, Bell Atlantic's effort to require a separate AC feed from the Power Utility to the CLEC's collocation adjacent structure also entail a host of unnecessary negotiations with Bell Atlantic surrounding the power cable routing and the installations of power poles, and/or conduits. Installations involving all the above will needlessly inflate costs, while complicating and delaying zoning, permitting and environmental approvals, serving only Bell Atlantic's interest. Bell Atlantic has always been and is still required to provide AC and DC to all forms of collocation, including adjacent structure. Bell Atlantic enjoys no waiver of this obligation.(5)

Standing To Obtain Permits/Zoning Etc. Under Section 10.3.2.A., the CLEC is required to obtain all permits. It is not clear, however, that the CLEC would necessarily have legal standing to obtain all such permits. There is no clear delineation or specification as to which party is involved in, or does the work for, obtaining zoning approval and which party pays.

Unnecessary R.O.W. Requirement Under Section 10.3.3.A., BA requires the CLEC to obtain some right-of-way from Bell Atlantic related to the adjacent structure collocation. This is a vague requirement, fraught with the potential for delay and discrimination. What is the R.O.W. requirement? Why is it necessary? What does it do that the collocation application does not? Why is it not necessary for traditional collocation? What does it cost? How is it obtained?

Distance Limitation - Signal Regeneration Expense. Under Section 10.3.4.B, Bell Atlantic seeks to impose on CLECs the expense for signal repeaters, if the distance to the adjacent structure exceeds the (unrepeated) distance limitation of digital signals. Signal regeneration expense is properly Bell Atlantic's expense whether in traditional collocation or in the instant case. In particular, its necessity is highly dependant on Bell Atlantic's choice of location for the adjacent structure. Under the proposed tariff provision, Bell Atlantic has the opportunity to compel the CLEC to place the adjacent structure on the property in a location, and/or utilize a cable routing which exceeds the digital signal unrepeated distance limitation and then charge the CLEC to cure the ILEC created problem. This provision should be stricken.

Contract Work Inspector. Under part E, Section 10.4.2.B., Bell Atlantic states that "[w]hen contract work inspection is provided in conjunction with CLEC work installation, the Telephone Company will bill the CLEC for all such labor charges which may be incurred." It is unclear whose labor charges are being referenced here. Moreover, the labor charges should be limited to "necessary and reasonable" charges. Indeed, a Bell Atlantic right to impose such unspecified charges on its competitors is possibly worse than the ICB charges discussed above. At least ICBs are developed and submitted for acceptance by the CLEC beforehand; these charges, by contrast, are ones which will only be known after they are already incurred, but are outside of the CLEC's control. Bell Atlantic has no incentive to minimize them.

NRCs. Even more than in the May 17 filing, Bell Atlantic has proposed in the May 19 filing a whole host of new NRCs. Bell Atlantic has provided a number of cost studies that purport to support the proposed charges. These cost studies, however, raise many questions that should be answered before the rates that are based on them are allowed to go into effect. As noted above with regard to the May 17 filing, up to now, the Department has been determining the reasonableness of NRC levels and application in the Consolidated Arbitrations. That case, however, is virtually on the eve of hearings, and it is presumably too late to include new NRCs in the current phase of the Consolidated Arbitrations proceeding. An investigation of the reasonableness of their levels and application should be conducted here. At a minimum, Bell Atlantic should be required to explain and support its virtually incomprehensible cost studies. Indeed, significant inputs to its cost studies are "supported" by unspecified studies and unexplained assumptions. A few of them are listed below:

Part S Workpaper Sec 3.1-Inputs - Factor and Inputs:

Line 2: why are 4 Customer Login Ids needed.

Lines 3-7: why is Bell Atlantic using data fromMaryland and New York to support a Massachusetts filing, and do these rates include overhead or any other adjustments.

Line 11: SPACE Utilization Factor of 19%. What is basis for the number.

Line 16: Expense Projection - Annual Labor Cost Growth. What is basis for the number.

Line 18: Service Establishment Hours per Customer. The mere statement of the two words "product management" does not explain why it takes 10 for service establishment on a per customer basis.

Part W Workpaper 1.0 Page 1 of 1 - On-site Adjacent Collocation -Engineering and Administration Fee

Line 8 B & C: What is basis for work time estimates. They appear high.

Line 10 A & B: What is basis for work time estimates. They appear high.

Part W Workpaper 2.0 Page 1 of 1 - OPS entrance facility Fee

Line 2: Work time estimate is unsupported and appears high.

Part X Workpaper 1.0 Page 1 of 1 - Dedicated Cable Support (DCS) - Engineering and implementation Fee

Work time estimate of 1.5 hour of travel time to and from site is unsupported and appears high.

Part N Workpaper 1.0 Page 1 of 1 - Site Survey/Report Fee.

Work time estimates merely asserted. No "source" even listed.

Liberal use of "engineering estimate" as source of numbers, with no further explanation.

Part U - Billing and Collection Fee Study

Results of study are driven completely by undisclosed "assumptions" and "special studies" listed as the source.

As in the case of the May 17 filing, with more time and process, it is likely that additional issues will become apparent in the proposed tariff provision Bell Atlantic filed on May 19 filing. In any event, there are sufficient issues raised above to warrant suspension and investigation to resolve them.

III. The Department Should Act Before June 24, 2000 To Suspend The Effective Date Of Bell Atlantic's May 25 Tariff Filing.

Although the Department has not yet requested comment on Bell Atlantic's May 25 tariff filing, AT&T urges the Department to act quickly to suspend those tariff provisions until the Department and the parties have had an opportunity to review them. As noted at the outset of these comments, the May 25 tariff provisions address a number of potentially important areas, including unbundled dark fiber, unbundled sub-loop arrangements, and certain aspects of unbundled network combinations. The parties should be given sufficient opportunity to review them before they are allowed to go into effect. At a minimum, the Department should suspend them long enough for both it and the CLECs to conduct an initial review and for the CLECs to file initial comments upon the completion of an initial review, it may be apparent that a suspension period that tracks the one AT&T proposed above for the May 17th and 19th tariff filings is appropriate.

Conclusion

The Department should reject Bell Atlantic's April 21 "Compliance" Filing because it does not comply with the Department's March 24 Order. The Department should order Bell Atlantic to resubmit the tariff provisions that are the subject of the April 21 filing with tariff provisions that are in compliance with the March 24 Order.

The Department should suspend for further investigation the tariff provisions contained in and supported by the May 17, May 19 and May 25 filings.

Respectfully submitted,

AT&T COMMUNICATIONS OF NEW ENGLAND, INC.

By its attorneys,

_____

Jeffrey F. Jones

Jay E. Gruber

Emily Donovan

Kevin Prendergast

Palmer & Dodge llp

One Beacon Street

Boston, MA 02108-3190

(617) 573-0100

Robert Aurigema

AT&T Communications of New England, Inc.

32 Avenue of the Americas, Room 2700

New York, NY 10013

(212) 387-5627

Dated: June 8, 2000

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the above document to be served upon the attorney of record for each other party on June 8, 2000

_____

TABLE OF CONTENTS

1. 1 The June 5th date was subsequently extended until June 8th.

2. 2 Although the provision relating to a "room or cage" does not expressly use the term "separate," the provision would add nothing if it were not understood to mean separate. That is clearly what the Department understood it to mean. See, Order, at 65.

3. 3 Bell Atlantic's decision to retain the offending language in the April 21 filing is illustrative of the difficulty of dealing with Bell Atlantic and the level of resources necessary to monitor with exceptional care every item, even in massive tariff filings. While the Department's Order left no uncertainty that the "significant local usage" definition was unacceptable, Bell Atlantic deliberately retained the language because the Department did not explicitly state that it should be removed.

4. 4 Without a clear explanation of why escorts are required in this circumstance, Bell Atlantic's escort provision here would appear to run counter to the Department's March 24 Order. See, Order, at 27-28 (while temporary escort requirements are acceptable pending implementation of other security measures, "[i]n light of the clear language in the Advanced Services Order, the Department finds that Bell Atlantic's escort requirements are unreasonable").

5. 5 Moreover, Bell Atlantic's promise to "make available physical collocation support services to the CLEC in the same non-discriminatory manner as it provides to itself for the Telephone Company's own CEVs" is cold-comfort to CLECs. Bell Atlantic is not using CEVs for functions that would be performed in the central office but for space limitations. Bell Atlantic, therefore, does not install bathrooms in CEVs. CLECs collocating via Adjacent Collocation are still legally entitled to use the bathroom and parking lot. See, FCC Advanced Services Order. Moreover, Bell Atlantic typically does not have auto-start permanent generators at their CEVs, while it does maintain that functionality at its central offices. The level of DC power support provided to collocators should not vary by the type of collocation employed, whether traditional or adjacent structure.